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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to
Implement Electric Utility
Wildfire Mitigation Plans
Pursuant to Senate Bill 901
(2018).

Rulemaking 18-10-007

ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING

This scoping memo and ruling sets forth the category, issues to be addressed, and schedule of the proceeding pursuant to Public Utilities (Pub. Util.) Code § 1701.1 and Article 7 of the Commission's Rules of Practice and Procedure.

1. Procedural Background

The Commission opened this proceeding via an Order Instituting Rulemaking (OIR) issued on October 25, 2018. The intent of the OIR is to implement the provisions of Senate Bill 901¹ related to electric utility wildfire mitigation plans. This OIR will provide guidance on the form and content of the initial wildfire mitigation plans, provide a venue for review of the initial plans, and develop and refine the content of and process for review and implementation of wildfire mitigation plans to be filed in future years.

The OIR named the following electric utilities as respondents: Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), Liberty Utilities/CalPeco Electric (Liberty), Bear Valley Electric Service, a division of Golden State Water Company

¹ Stats. 2018, Ch. 626.

(Bear Valley), and Pacific Power, a division of PacifiCorp (PacifiCorp). Each of these utilities filed comments on the OIR, jointly or in combination. The following additional parties also filed comments: The Utility Reform Network (TURN); Green Power Institute (Green Power); the Commission's Public Advocates' Office (Cal Advocates); Hans Laetz on behalf of Zuma Beach FM Broadcasters (Zuma Beach); California Municipal Utilities Association (CMUA); the Commission's Office of the Safety Advocate (OSA); the City of Laguna Beach (Laguna Beach); Pacific Bell Telephone Company, d/b/a AT&T California, AT&T Mobility¹ and AT&T Corp. (AT&T); the California Cable and Telecommunications Association (CCTA); East Bay Municipal Utility District (EBMUD); Mussey Grade Road Alliance (Mussey Grade); Coalition of California Utility Employees (CCUE); and Small Business Utility Advocates (SBUA).

A prehearing conference (PHC) was held on November 14, 2018 to discuss the issues and to address the procedures and schedule for this proceeding. At the PHC, the large utilities (PG&E, SCE and SDG&E) stated they had prepared a sample template wildfire mitigation plan. The assigned Administrative Law Judge (ALJ) directed the utilities to share the template with all parties after the PHC and host a webinar on to walk parties through the template and answer their questions. The webinar took place on November 27, 2018.

2. Issues

The scope of this proceeding is based upon the OIR, comments on the OIR, and statements at the PHC. Consistent with the OIR, the focus of this proceeding is to review and approve the 2019 wildfire mitigation plans of California's electric utilities required by Pub. Util. Code Section 8386, as modified by SB 901. The full text of amended Section 8386 is set forth in Appendix A. Section 8386 contains a detailed list of the required contents of the plans. The items to be

included in the plans are all within the scope of the proceeding. In this proceeding the Commission will consider, among other things, how to interpret and apply the statute's list of required plan elements, as well as whether additional elements beyond those required in statute should be included in the wildfire mitigation plans. Parties will be asked for specific and detailed input on their interpretation of Section 8386, including their views on the meaning of the provisions listed for inclusion in wildfire mitigation plans. Other provisions of SB 901 that affect our consideration, interpretation, or approval of the wildfire mitigation plans may also be within the scope of this proceeding.

A number of parties focused their comments and discussion on the electric utility practice of proactive de-energization of power lines under high fire-risk conditions (as approved by the Commission in Resolution ESRB-8). De-energization is on the list of items that utility wildfire mitigation plans must cover, and accordingly will be addressed in this proceeding as one element of the plans, but the subject requires more in-depth consideration than it can receive in this proceeding. Accordingly, the Commission will consider opening a separate rulemaking on de-energization at its December 13, 2018 business meeting.

3. Need for Evidentiary Hearing

At the PHC there was discussion regarding the need for evidentiary hearings in this proceeding. The majority of parties addressing the issue believed that hearings would not be necessary or desirable; one party requested hearings, and several parties expressed a concern that while not desirable, evidentiary hearings could be necessary depending on the content of the plans submitted by the utilities. (Transcript, v. PHC at 36-50.) At this time, it is premature to make a final decision whether evidentiary hearings are needed; evidentiary hearings will

only be held if certain conditions are met, and the assigned ALJs and Commissioner determine that they are needed.

Any party that believes a hearing is required must make a motion requesting evidentiary hearings consistent with the schedule set forth below including the following information: i) the material issues of disputed fact to be addressed in hearings, (ii) the evidence the party proposes to introduce, (iii) the specific provisions of the utility plan to be addressed in hearings, and (iv) the amount of time requested for hearings. The motion shall also state a justification for hearings and what the moving party would seek to demonstrate through hearings. Responses to motions requesting evidentiary hearings may be filed consistent with the schedule set forth below. The below schedule provides for hearings if they are determined to be needed.

4. Schedule

The schedule for this proceeding is:

Common Schedule (with or without hearings)

EVENT	DATE
Utilities file and serve wildfire mitigation plans	February 6, 2019
Workshop on plans	February 13, 2019
Motions requesting hearings filed and served	February 20, 2019
Responses to motions for hearings filed and served	February 25, 2019
Focused issue-specific workshops	Week of Feb. 25, 2019
Pre-hearing conference addressing motions for hearings and other procedural matters	February 26, 2019

Remaining Schedule with Hearings

EVENT	DATE
Intervenor testimony served	March 4, 2019
Evidentiary hearings	Start March 11, 2019
Concurrent opening briefs/comments ²	March 22, 2019
Concurrent reply briefs/comments	March 27, 2019

Remaining Schedule without Hearings

EVENT	DATE
Intervenor comments filed and served	March 13, 2019
Utility reply comments filed and served	March 22, 2019

Based on this schedule, the proceeding will be resolved within 18 months as required by Pub. Util. Code § 1701.5. This schedule may be modified by the assigned administrative law judges or Commissioner as needed to promote the efficient and fair resolution of this proceeding.

5. Category of Proceeding/*Ex Parte* Restrictions

This ruling confirms the Commission's preliminary determination that this is a ratesetting proceeding. Accordingly, *ex parte* communications are restricted and must be reported pursuant to Article 8 of the Commission's Rules of Practice and Procedure.

6. Public Outreach

Pursuant to Pub. Util. Code § 1711(a), the Commission sought the participation of those likely to be affected by this matter as follows.

² Parties may address both policy and legal issues.

Two pieces of correspondence were sent out broadly to 6,033 key stakeholders throughout the state. The contacts included elected officials and staff from the city and county level with an emphasis on emergency service providers. The Commission's outreach staff concentrated on offices of emergency service, public safety officials, and cities that have an urban/rural fire interface. The public safety and city/county government list included mayors, supervisors, city managers, chiefs of police, sheriffs, police, fire chiefs, fire marshals, public works directors, and similar first responders.

The first communication was a press release titled, "CPUC Acts To further Protect State from Wildfires Related to Utility Electric Facilities."³ It was sent out during October 25 and 26, 2018. The second communication was an email message that described this proceeding R.18-10-007, urged stakeholders to provide input and showcased key dates. It was sent during the period November 1 through 5, 2018.

The Commission created and will continue to update regularly a webpage for this proceeding, located at <http://cpuc.ca.gov/SB901/>.

The Commission posted information about the proceeding and seeking input on its social media platforms.

In addition, the Commission served the OIR on the respondent investor-owned electric utilities and on the service lists for the following proceedings: R.15-05-006, R.15-06-009, Application (A.) 15-09-010, A.17-07-011, A.18-04-001, A.18-09-002, and A.08-12-021. Further, the Commission served the OIR on the following agencies and organizations: State Board of Forestry and Fire Protection (CAL FIRE), California Energy Commission, State Air Resources

³ The press release appears at <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M235/K696/235696447.PDF>.

Control Board, California Office of Emergency Services, California Department of Fish and Wildlife, California Infrastructure and Economic Development Bank, California Office of Planning and Research, California Department of Parks and Recreation, California State Association of Counties, League of California Cities, California Municipal Utilities Association, California Native American Heritage Commission, and California Fire Chiefs' Association.

7. Intervenor Compensation

Pursuant to Pub. Util. Code § 1804(a)(1), a customer who intends to seek an award of compensation must file and serve a notice of intent to claim compensation no later than 30 days after the prehearing conference.

8. Public Advisor

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or has questions about the electronic filing procedures is encouraged to obtain more information at <http://consumers.cpuc.ca.gov/pao/> or contact the Commission's Public Advisor at 866-849-8390 or 415-703-2074 or 866-836-7825 (TTY), or send an e-mail to public.advisor@cpuc.ca.gov.

9. Service of Documents on Commissioners and Their Personal Advisors

Rule 1.10 requires only electronic service on any person on the official service list, other than the administrative law judge (ALJ).

When serving documents on Commissioners or their personal advisors, whether or not they are on the official service list, parties must only provide electronic service. Parties must NOT send hard copies of documents to Commissioners or their personal advisors unless specifically instructed to do so.

10. Assignment of Proceeding

Michael Picker is the assigned commissioner and Peter V. Allen and Sarah R. Thomas are the assigned ALJs for this proceeding.

IT IS RULED that:

1. The scope of this proceeding is described above.
2. The schedule of this proceeding is as set forth above.
3. The category of this proceeding is ratesetting.

Dated December 7, 2018, at San Francisco, California.

/s/ MICHAEL PICKER

Michael Picker
Assigned Commissioner

Appendix A

Amended Public Utilities Code Section 8386

8386.

(a) Each electrical corporation shall construct, maintain, and operate its electrical lines and equipment in a manner that will minimize the risk of catastrophic wildfire posed by those electrical lines and equipment.

(b) Each electrical corporation shall annually prepare and submit a wildfire mitigation plan to the commission for review and approval, according to a schedule established by the commission, which may allow for the staggering of compliance periods for each electrical corporation. The Department of Forestry and Fire Protection shall consult with the commission on the review of each wildfire mitigation plan. Prior to approval, the commission may require modifications of the plans. Following approval, the commission shall oversee compliance with the plans pursuant to subdivision (h).

(c) The wildfire mitigation plan shall include:

(1) An accounting of the responsibilities of persons responsible for executing the plan.

(2) The objectives of the plan.

(3) A description of the preventive strategies and programs to be adopted by the electrical corporation to minimize the risk of its electrical lines and equipment causing catastrophic wildfires, including consideration of dynamic climate change risks.

(4) A description of the metrics the electrical corporation plans to use to evaluate the plan's performance and the assumptions that underlie the use of those metrics.

(5) A discussion of how the application of previously identified metrics to previous plan performances has informed the plan.

(6) Protocols for disabling reclosers and deenergizing portions of the electrical distribution system that consider the associated impacts on public safety, as well as protocols related to mitigating the public safety impacts of those protocols, including impacts on critical first responders and on health and communication infrastructure.

(7) Appropriate and feasible procedures for notifying a customer who may be impacted by the deenergizing of electrical lines. The procedures shall consider the need to notify, as a priority, critical first responders, health care facilities, and operators of telecommunications infrastructure.

(8) Plans for vegetation management.

(9) Plans for inspections of the electrical corporation's electrical infrastructure.

(10) A list that identifies, describes, and prioritizes all wildfire risks, and drivers for those risks, throughout the electrical corporation's service territory, including all relevant wildfire risk and risk mitigation information that is part of Safety Model Assessment Proceeding and Risk Assessment Mitigation Phase filings. The list shall include, but not be limited to, both of the following:

(A) Risks and risk drivers associated with design, construction, operations, and maintenance of the electrical corporation's equipment and facilities.

(B) Particular risks and risk drivers associated with topographic and climatological risk factors throughout the different parts of the electrical corporation's service territory.

(11) A description of how the plan accounts for the wildfire risk identified in the electrical corporation's Risk Assessment Mitigation Phase filing.

(12) A description of the actions the electrical corporation will take to ensure its system will achieve the highest level of safety, reliability, and resiliency, and to ensure that its system is prepared for a major event, including hardening and modernizing its infrastructure with improved engineering, system design, standards, equipment, and facilities, such as undergrounding, insulation of distribution wires, and pole replacement.

(13) A showing that the utility has an adequate sized and trained workforce to promptly restore service after a major event, taking into account employees of other utilities pursuant to mutual aid agreements and employees of entities that have entered into contracts with the utility.

(14) Identification of any geographic area in the electrical corporation's service territory that is a higher wildfire threat than is currently identified in a commission fire threat map, and where the commission should consider expanding the high fire threat district based on new information or changes in the environment.

(15) A methodology for identifying and presenting enterprise-wide safety risk and wildfire-related risk that is consistent with the methodology used by other electrical corporations unless the commission determines otherwise.

(16) A description of how the plan is consistent with the electrical corporation's disaster and emergency preparedness plan prepared pursuant to Section 768.6, including both of the following:

(A) Plans to prepare for, and to restore service after, a wildfire, including workforce mobilization and prepositioning equipment and employees.

(B) Plans for community outreach and public awareness before, during, and after a wildfire, including language notification in English, Spanish, and the top three primary languages used in the state other than English or Spanish, as determined by the commission based on the United States Census data.

(17) A statement of how the electrical corporation will restore service after a wildfire.

(18) Protocols for compliance with requirements adopted by the commission regarding activities to support customers during and after a wildfire, outage reporting, support for low-income customers, billing adjustments, deposit waivers, extended payment plans, suspension of disconnection and nonpayment fees, repair processing and timing, access to utility representatives, and emergency communications.

(19) A description of the processes and procedures the electrical corporation will use to do all of the following:

(A) Monitor and audit the implementation of the plan.

(B) Identify any deficiencies in the plan or the plan's implementation and correct those deficiencies.

(C) Monitor and audit the effectiveness of electrical line and equipment inspections, including inspections performed by contractors, carried out under the plan and other applicable statutes and commission rules.

(20) Any other information that the commission may require.

(d) The commission shall accept comments on each plan from the public, other local and state agencies, and interested parties, and verify that the plan complies with all applicable rules, regulations, and standards, as appropriate.

(e) The commission shall approve each plan within three months of its submission, unless the commission makes a written determination, including reasons supporting the determination, that the three-month deadline cannot be met and issues an order extending the deadline. Each electrical corporation's approved plan shall remain in effect until the commission approves the electrical corporation's subsequent plan. At the time it approves each plan, the commission shall authorize the utility to establish a memorandum account to track costs incurred to implement the plan.

(f) The commission's approval of a plan does not establish a defense to any enforcement action for a violation of a commission decision, order, or rule.

(g) The commission shall consider whether the cost of implementing each electrical corporation's plan is just and reasonable in its general rate case application. Nothing in this section shall be interpreted as a restriction or limitation on Article 1 (commencing with Section 451) of Chapter 3 of Part 1 of Division 1.

(h) The commission shall conduct an annual review of each electrical corporation's compliance with its plan as follows:

(1) Three months after the end of an electrical corporation's initial compliance period as established by the commission pursuant to subdivision (b), and annually thereafter, each electrical corporation shall file with the commission a report addressing its compliance with the plan during the prior calendar year.

(2) (A) Before March 1, 2021, and before each March 1 thereafter, the commission, in consultation with the Department of Forestry and Fire Protection, shall make available a list of qualified independent evaluators with experience in assessing the safe operation of electrical infrastructure.

(B) (i) Each electrical corporation shall engage an independent evaluator listed pursuant to subparagraph (A) to review and assess the electrical corporation's compliance with its plan. The engaged independent evaluator shall consult with, and operate under the direction of, the Safety and Enforcement Division of the commission. The independent evaluator shall issue a report on July 1 of each year in which a report required by paragraph (1) is filed. As a part of the independent evaluator's report, the independent evaluator shall determine whether the electrical corporation failed to fund any activities included in its plan.

(ii) The commission shall consider the independent evaluator's findings, but the independent evaluator's findings are not binding on the commission, except as otherwise specified.

(iii) The independent evaluator's findings shall be used by the commission to carry out its obligations under Article 1 (commencing with Section 451) of Chapter 3 of Part 1 of Division 1.

(iv) The independent evaluator's findings shall not apply to events that occurred before the initial plan is approved for the electrical corporation.

- (3) The commission shall authorize the electrical corporation to recover in rates the costs of the independent evaluator.
- (4) The commission shall complete its compliance review within 18 months after the submission of the electrical corporation's compliance report.
- (i) An electrical corporation shall not divert revenues authorized to implement the plan to any activities or investments outside of the plan.
- (j) Each electrical corporation shall establish a memorandum account to track costs incurred for fire risk mitigation that are not otherwise covered in the electrical corporation's revenue requirements. The commission shall review the costs in the memorandum accounts and disallow recovery of those costs the commission deems unreasonable.

(End of Appendix A)